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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/743,794	12/24/2003	Katsuhiro Mita	033697-009	9819	
21839	7590 09/17/2004	EXAMINER		INER	•
	BURNS DOANE SWECKER & MATHIS L L P			SCHWARTZ, CHRISTOPHER P	
	POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404		ART UNIT	PAPER NUMBER	1
			3683		_

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	L Application No.	Applicant/a)			
	Application No.	Applicant(s)			
	10/743,794	MITA ET AL.			
Office Action Summary	Examiner	Art Unit			
	Christopher P. Schwartz	3683			
The MAILING DATE of this communicati Period for Reply		h the correspondence address			
A SHORTENED STATUTORY PERIOD FOR THE MAILING DATE OF THIS COMMUNICAT  - Extensions of time may be available under the provisions of 37 after SIX (6) MONTHS from the mailing date of this communicatif the period for reply specified above is less than thirty (30) day  If NO period for reply is specified above, the maximum statutory  - Failure to reply within the set or extended period for reply will, by Any reply received by the Office later than three months after the earned patent term adjustment. See 37 CFR 1.704(b).	TION.  CFR 1.136(a). In no event, however, may a relition.  s, a reply within the statutory minimum of thirty period will apply and will expire SIX (6) MONT y statute, cause the application to become ABA	ply be timely filed  (30) days will be considered timely.  THS from the mailing date of this communication.  NDONED (35 U.S.C. § 133).			
Status					
1) Responsive to communication(s) filed or	)				
2a) This action is FINAL. 2b)	This action is non-final.				
3) Since this application is in condition for a	allowance except for formal matte	ers, prosecution as to the merits is			
closed in accordance with the practice u	nder <i>Ex parte Quayle</i> , 1935 C.D.	11, 453 O.G. 213.			
Disposition of Claims					
4) Claim(s) 1-7 is/are pending in the application	ation.				
4a) Of the above claim(s) is/are w	ithdrawn from consideration.				
5) Claim(s) is/are allowed.					
6)⊠ Claim(s) <u>1-7</u> is/are rejected.					
7) Claim(s) is/are objected to.					
8) Claim(s) are subject to restriction	and/or election requirement.				
Application Papers					
9) The specification is objected to by the Ex	aminer.				
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.					
Applicant may not request that any objection	to the drawing(s) be held in abeyand	ce. See 37 CFR 1.85(a).			
Replacement drawing sheet(s) including the	correction is required if the drawing(s	s) is objected to. See 37 CFR 1.121(d).			
11)☐ The oath or declaration is objected to by	the Examiner. Note the attached	Office Action or form PTO-152.			
Priority under 35 U.S.C. § 119					
12) △ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) △ All b) ☐ Some * c) ☐ None of:  1. △ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage					
application from the International		received in this National Stage			
* See the attached detailed Office action for	a list of the certified copies not r				
Attachment(s)		/ Leave FR Sammer			
<ol> <li>Notice of References Cited (PTO-892)</li> <li>Notice of Draftsperson's Patent Drawing Review (PTO-93)</li> <li>Information Disclosure Statement(s) (PTO-1449 or PTO-1449)</li> </ol>	4) ☐ Interview St 48) Paper No(s) (SB/08) 5) ☐ Notice of Inf	ummary (PTO-413) //Mail Date formal Patent Application (PTO-982)			
Paper No(s)/Mail Date <u>3</u> .	6)	<u>-</u>			

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Art Unit: 3683

#### **DETAILED ACTION**

## **Priority**

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### Information Disclosure Statement

2. The information disclosure statement has been received and considered.

## Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-7 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1 the phrase "said booster device and said master cylinder device are connected with each other by bringing.." appears to be a method limitation in an otherwise structural claim.

It becomes unclear what applicant is relying upon for patentability—the structure of the device or the method of assembling the device.

Claims 2- 4 contain the same problem.

## Claim Rejections - 35 USC § 103

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

- 5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
- 6. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haar in view of Fulmer and Fontaine or Kawasumi et al..

Regarding claim 1 Haar discloses in figures 1 and 2 a booster and master cylinder arrangement similar to applicants. Note the rod 23 is pulled to deliver master cylinder pressure. Note chambers at 21 and 33 and the valve arrangement at 31,36.

Haar lacks showing the particular arrangement of the rear end surface of the master cylinder with respect to the front shelll of the booster.

Fulmer shows it is well known to reverse the arrangement of the master cylinder with respect to the booster. See figures 1 and 2.

The references to Fontaine or Kawasumi et al. each show pivot type joint connections between the rod of the booster and that of the master cylinder. See element 18 in Fontaine and the general area between elements 23 and 27 in Kawasumi et al.

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Dependent upon the particular type or design of the vehicle one having ordinary skill in the art at the time of the invention would have found it obvious to have reversed the arrangement of the booster and master cylinder of Haar, as taught by Fulmer, and to have connected the rod of the booster to that of the master cylinder of Haar, as taught by either Fontaine or Kawasumi et al. for such well known engineering design considerations as ease of assembly/repair of the device and more efficient brake operation or "pedal feel" for the driver. It is notoriously well known in the art to make singular parts plural and vice-versa as a matter of engineering optimization of the device.

Regarding claims 2-3 these requirements are met.

Regarding claim 4 interpreted broadly the phrase "automatically connect" can simply mean the rod elements are in contact with one another in some fashion. See the connection of elements 23 and 27 of Kawasumi et al. See the connection at 16 and 15a in Fontaine. These elements are "capable of" being "automatically connected".

Regarding claims 5-7 as broadly claimed, these requirements are met.

#### Conclusion

- 7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the "automatic connection" in the device of Takasaki et al. '401.
- 8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 703-308-0576. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Cps 9/15/04